

**COMMONWEALTH OF VIRGINIA**  
**STATE CORPORATION COMMISSION**

**SUPPLEMENTAL  
STAFF REPORT ON THE  
SCHEDULE FOR THE TRANSITION  
TO RETAIL ACCESS**

**FEBRUARY 26, 2001**

## **Supplemental Staff Report on the Schedule for Transition to Retail Access**

On December 21, 2000, the State Corporation Commission ("Commission") issued an Order Prescribing Notice and Inviting Comment in Case No. PUE000740 (the "Order"). Attached to that Order was a Staff report that included a recommended draft plan for the transition to a competitive market in the provision of retail electric generation services within the Commonwealth. The recommended plan was intended to assist the Commission in implementing §56-577 of the Virginia Electric Utility Restructuring Act (the "Act").

The Order called for interested parties to comment on the Staff report and draft plan by February 15, 2001. Several comments were filed. The Commission Staff appreciates the thoughtful responses that were submitted.

A review of the comments causes Staff to suggest three changes to its draft recommended plan for the transition to retail access. These changes, which will be discussed in the body of this supplemental report, are:

- The Electric Cooperatives should be given until January 1, 2004, to move to full retail choice.
- Kentucky Utilities should have the same transition plan as the Electric Cooperatives, with full retail choice available by January 1, 2004.
- The requirement that utilities provide competitive service providers a mass list of customer information should be considered in the current proceeding establishing rules for retail access (Case No. PUE010013) rather than in this proceeding.

The changes made to the Staff recommended plan for the transition to retail access are shown in Attachment A at the end of this supplemental report. Attachment B is a copy of the revised plan without the changes highlighted. Appendix I, attached to the December 21, 2000 report, was Virginia Power's proposed transition plan for itself. As there have been no changes to that proposal, it is not included in this supplemental report.

## **Extension of Transition Time for Electric Cooperatives**

Last fall, when Staff met with stakeholders to receive input on the implementation of a transition plan and prepared its report and recommended plan, a plan for the Electric Cooperatives to achieve full retail access by January 1, 2003, appeared reasonable. Now, a little more than two months later, a review of the work that will be involved to prepare all of the Cooperatives for competition gives Staff concern that a January 1, 2003, directive may be difficult for all the Cooperatives to accomplish.

As the Cooperatives mention in their comments, we are already faced this year with five cooperative rate cases and thirteen cooperative functional separation cases. Upon completion of those cases, the Cooperatives and Staff will need to turn their attention to setting "prices to compare" and getting each Cooperative's electronic data interface ("EDI") procedures in place.

Accomplishing these tasks will involve a great deal of effort on behalf of the Cooperatives and Staff. Unlike the investor-owned utilities (except Kentucky Utilities), the Cooperatives do not have experience with competition. Only Rappahannock Electric Cooperative has developed EDI capabilities and its pilot program began on January 1, 2001.

Staff believes that providing another year to the Cooperatives, until January 2004, to complete their transition to retail access will not have a detrimental effect upon the success of our overall plan for the Commonwealth. The attractiveness of Virginia to competitive service providers ("CSPs") is not dependent upon the participation of the Cooperatives.

Some of the Electric Cooperatives have less than 10,000 customers. Even the larger Cooperatives, for the most part, remain rural in nature. Their territories will probably be the last to be served by CSPs. According to the National Rural Electric Cooperative Association, thirteen distribution cooperatives in Pennsylvania began offering retail choice to all their

members as of January 1, 1999, and not one alternative supplier has registered to serve in any of those territories.

By granting the Electric Cooperatives another year for their transition, Staff will be able to focus more of its attention to the transition of the Commonwealth's largest investor-owned electric utilities. As we noted in the original report, we hope that those Cooperatives that are able will implement choice before 2004.

Staff continues to recommend that the Electric Cooperatives file quarterly status reports beginning July 2001. In their comments, the Cooperatives supported this recommendation and pledged to cooperate with Staff in developing the information and data to be provided.

#### **Extension of Transition Time for Kentucky Utilities**

Kentucky Utilities ("KU") is in a situation similar to the Electric Cooperatives. KU serves only 29,000 customers in Virginia. There is little, if any, movement toward energy competition in Kentucky, where most of KU's customers reside. For that reason, KU has not yet developed the systems necessary to accommodate retail access.

It is unlikely that marketers will immediately target KU's Virginia service territory for active solicitation of customers. In addition to its small size, mentioned above, KU's rates are among the lowest in the nation. Also, KU is not interconnected with any other electric utility in Virginia, so access to its customers would involve a circuitous route through Kentucky, a state that has no immediate plans for retail competition.

For these reasons, Staff agrees with KU's argument in its comments that it be provided flexibility similar to the Electric Cooperatives. Staff recommends that KU be allowed to transition to full retail access as rapidly as possible, but no later than January 1, 2004. We also recommend that quarterly reports be filed beginning July 2001, detailing KU's transition efforts.

### **Deferment of Opt-Out Decision**

In its transition report and recommended plan, Staff argued that utilities should be required to provide CSPs a mass list of customer information after providing customers an opportunity to "opt-out".

Since the December 21, 2000, transition report was issued, another proceeding has begun with the purpose of developing proposed rules for the start of retail access. A work group has been formed to provide Staff with input for a report on proposed rules that will be completed by Staff by March 6, 2001, and circulated for comment.

One of the issues being discussed by the work group, and which will be included in the Staff rules report, is the use of a mass list of customer information. Much more detail will be provided in the rules report on this issue than was provided in the transition report. Not only will the opt-out versus opt-in debate be addressed, the rules report will also recommend the types of information that should be provided in the customer information.

Staff recommends that the issue of whether a mass list of customer information be provided on an opt-out basis not be considered in this proceeding. The rules proceeding will provide a proper setting for this issue, especially since some participants in the rules work group are not involved in this proceeding.

### **Other Issues**

Dominion Virginia Power, in its comments on the Staff's transition plan, asserts that it needs a full two-year transition plan to avoid customer disruptions. Staff disagrees for the reasons stated in the December 21<sup>st</sup> report. A one-year transition plan should provide adequate time for a smooth transition. Unlike the Electric Cooperatives and Kentucky Utilities, Virginia Power has developed systems to use in its pilot programs. Also, a delay of Virginia Power's

transition would have a significant affect on marketers. As an added protection to assure there are no service disruptions, Staff continues to recommend that the Company be allowed to request an extension of the following transition increment if it should encounter difficulties.

Virginia Power also disagrees with Staff's recommendation that a waiting list be developed for large commercial and industrial customers who try to enroll after their phase-in quota has already been reached. The Company claims that a waiting list presumes that a customer and its potential supplier would still want to honor the provisions of a contract when a slot became available. Staff recognizes that not all customers would be able to take advantage of a waiting list because of contractual terms. For those that have such flexibility, however, a waiting list appears to offer an incentive for customers to shop and for suppliers to make offers.

In its comments, AES New Energy suggests that for Dominion Virginia Power's transition plan, GS-2 customers be included in the definition of large customers. This would mean that GS-2 customers, as GS-3 and GS-4 customers in Dominion Virginia Power's proposed plan, would have choice made available across the entire service area in three equal increments. AES New Energy claims that GS-2 customers are sophisticated and ready to make retail choice decisions and that being able to shop on a first-come, first-serve basis will eliminate any perception of unfair competition. Staff believes that AES New Energy has made a reasonable suggestion and we would appreciate Virginia Power addressing this request in its response to the supplemental report.

Washington Gas Energy Services states that an issue addressed in the Staff transition report that requires further consideration in this proceeding is that of regional transmission constraints. Staff continues to believe that while this issue is extremely important, it is more

appropriately addressed in the development of regional transmission entities and Federal Energy Regulatory Commission proceedings.

Delmarva has requested in its comments that if Virginia's final EDI rules differ from those developed in neighboring states, that it be permitted to utilize Maryland's standards. While this request appears reasonable, Staff suggests that Delmarva work with the Virginia Electronic Data Transfer working group to resolve such a problem if it should occur. This working group is involved with a regional effort that should take care of such problems.

We received comments from a few manufacturing firms that expressed concerns about electric industry restructuring and advocated that the process not be accelerated. Staff believes, however, that an acceleration of the transition to retail access, as advocated in our revised plan, will be a benefit to Virginia's electric customers. This acceleration will not affect the date of price cap termination. By introducing retail access to most of the Commonwealth on an accelerated basis, it will allow customers an earlier opportunity to choose and it will provide more time to determine if effective competition will develop prior to the termination of the capped rate period. Customers will still have the option of remaining with their utility at capped rates during this time.

### **Conclusion**

For the reasons stated above and in the December 21<sup>st</sup> report, the Staff recommends that the Commission adopt its revised plan for the transition to retail access as detailed in Attachment B.

STAFF'S RECOMMENDED PLAN FOR THE  
TRANSITION RETAIL ACCESS  
**REVISED**

- AEP-VA, Allegheny Power **and** Delmarva ~~and Kentucky Utilities~~ will immediately transition to full retail choice on January 1, 2002.
- Dominion Virginia Power adhere to its proposed transition plan as detailed in Appendix I with the following modifications;
  - January 1, 2002 - full retail choice available to residential and small commercial customers in the Northern Region and one-third of the system industrial load opened to retail choice.
  - September 1, 2002 - full retail choice available to residential and small commercial customers in the Central/western region and two-thirds of the system industrial load opened to retail choice.
  - January 1, 2003- full retail choice for the Eastern region and all industrial load opened to retail choice.
- Electric Cooperatives **and Kentucky Utilities** may move to full retail choice at their own pace to be completed by January 1, 2003<sup>4</sup>. Quarterly reports will be filed beginning July 2001, detailing the transition efforts.
- Customers shall not be made to volunteer before participating. ~~Incumbent utilities are to provide competitive service providers a mass list of customer information after allowing customers an opportunity to opt out.~~
- For proportional phase-in schedules, the following rules shall be followed:
  - No use of lottery systems for the selection of participants.
  - Participation be made available on a first-in basis.
  - A customer's load at a specific service location should not be split among more than one supplier.
  - A phase-in segment's quota be flexible so that the last customer allowed to participate be able to switch its entire load.



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